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WESTERN DISTRICT OF LOUISIANA

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF LOUISIANA

ALEXANDRIA DIVISION

ROY A. VANDERHOFF

CIVIL ACTION NO. 05-0309

-vs-

JUDGE DRELL

RANDY PRENTICE, et al.

MAGISTRATE JUDGE KIRK

RULING

Before the Court is a, now, unopposed motion for summary judgment (Doc. 55) filed by the sole remaining defendant, Dr. Alfonso Pacheco.¹ For the reasons set forth below, the motion will be granted. The plaintiff, Roy Vanderhoff, has asserted claims under 42 U.S.C. § 1983, seeking civil rights remedies because of deliberate indifference to a serious medical condition by Dr. Pacheco. Specifically, Mr. Vanderhoff claims he "had at least one bulging disc and other back conditions for which he needed surgery," which Dr. Pacheco allegedly ignored. On May 20, 2008, Dr. Pacheco filed this motion for summary judgment, submitting a statement of undisputed facts pursuant to LR56.1. Mr. Vanderhoff's counsel stated, in response to the motion, that "[t]he undersigned has concluded, after a careful study of the medical records received today from Huey P Long Medical Clinic, that he cannot oppose the motion." (Doc. 62). Accordingly, pursuant to LR56.2, we adopt the statement of undisputed facts.

¹ On February 11, 2008, the only other named defendant, Randy Prentice, was dismissed under LR41.3W for failure to effect service within 120 days.

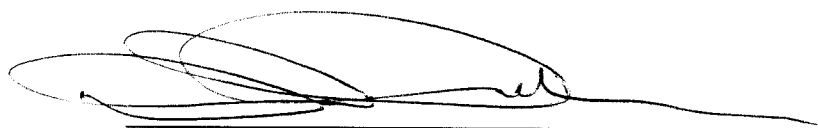
Significantly, the statement asserts that Mr. Vanderhoff has no documented medical history of back pain, and Dr. Pacheco was not informed of any such back pain, either by Mr. Vanderhoff or by another medical professional. (Doc. 55-3). The record evidence before the Court supports these assertions; at least, there is no evidence to the contrary. Based on these facts, Dr. Pacheco asserts that he is entitled to judgment as a matter of law because there is no evidence of deliberate indifference to a serious medical need, as required under 42 U.S.C. § 1983; alternatively, Dr. Pacheco claims he is entitled to qualified immunity.

Dr. Pacheco's memorandum in support (Doc. 55-2) properly sets out the relevant law and Rule 56 standards. We adopt that reasoning as our own. We specifically find that Mr. Vanderhoff has failed to present any evidence of deliberate indifference, which is required under 42 U.S.C. § 1983 based on the facts asserted in the complaint. Dr. Pacheco is entitled to judgment in his favor as a matter of law.

CONCLUSION

Based on the foregoing, Dr. Pacheco's motion for summary judgment (Doc. 55) is GRANTED. By separate judgment, all of the plaintiff's claims will be dismissed with prejudice, which will terminate this suit. The pending bench trial, currently scheduled for August 13, 2008, will be canceled.

SIGNED on this 4 day of August, 2008 at Alexandria, Louisiana.

A handwritten signature in black ink, appearing to read 'Dee D. Drell', written over a horizontal line.

DEE D. DRELL
UNITED STATES DISTRICT JUDGE